IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8085 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHUPENDRASINHJI FATESINHJI WAGHELA

Versus

COLLECTOR

Appearance:

MR SHIRISH JOSHI for Petitioner

MR BY MANKAD, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 13/10/2000

ORAL JUDGEMENT

Rule. Mr BY Mankad, learned AGP waives service of Rule for the respondents. With the consent of the learned counsel for the parties, the petition is taken up for final disposal today.

2. In this petition under Article 226 of the Constitution, the petitioner has prayed for a writ of

mandamus to direct the respondent authorities to allot and hand over possession of a shop at Gandhinagar on the ground that the petitioner's mother had lost her agricultural land admeasuring 66 Acres at village Pethapur and that the Government had framed a scheme in the year 1987 to allot a shop or agricultural land or Government employment to the land losers over and above the monetary compensation and residential plot admeasuring 200 sq.mtrs. which was already offered before 1987.

3. As regards the contention raised in the affidavit in reply that the petitioner is not entitled to get any shop now in view of the fact that the petitioner's mother Manharba acting through the petitioner had given up the allotment of shop as per the letter dated 10.7.1984 as annexed to the reply affidavit, Mr Joshi for the petitioner points out that at that time the scheme was, or atleast the impression which the landlosers had was, that the shop could be taken in lieu of the residential plot and that is also especially clear from the letter dated 10.7.1984 itself and, therefore, the petitioner's mother having opted for the residential plot of 200 sq.mtrs., she did not opt for the allotment of a shop. However, it was thereafter by the Government Resolution dated 14.8.1987 as referred to in para 4 of the reply affidavit that all the agriculturists whose land had been acquired were offered one benefit out of the following three benefits, over and above monetary compensation and residential plot.

1. Employment
2. Cheap type shop
3. Agricultural land

It is submitted that the petitioner's mother and the petitioner have been requesting the authorities to give them a cheap type shop being one out of the three benefits.

4. In reply, it is contended by Mr Mankad for the respondents, on the basis of the affidavit in reply, that the petitioner's mother was allotted a shop in 1984 but she had not accepted the allotment as stated in the letter dated 10.7.1984 written by the petitioner herself on behalf of his mother.

5. It is true that there is some delay in filing the petitioner, but the petitioner has pointed out that the petitioner had been approaching the authorities and even the Ministers have recommended the petitioner's case as

per Annexures "B" and "C". Yet the petitioner's mother or the petitioner have not been allotted any shop. When the petitioner had lost 66 Acres of land for the capital project at Gandhingar, the meagre compensation which was then paid and 200 sq.mtrs. of land was not considered as adequate compensation even by the authorities and that is why the scheme was evolved as per the Government Resolution dated 14.8.1987.

6. In view of the above discussion, the petition is allowed. Respondent No. 1 is directed to allot a shop to the petitioner at Gandhinagar in accordance with the aforesaid scheme as contained in the Government Resolution dated 14.8.1987 as early as possible and preferably within two months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

October 13, 2000 (M.S. Shah, J.)
sundar/-